UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ENTERED
Clerk, U.S. District Court
APR 5. 1006
Central District of California
By Santa Ana Deputy

FILED
Clerk, U.S. District Court
APR 3, 1996
Central District of California
By Santa Ana Deputy

PATRICIA A. BILLETER
Plaintiffs,

v.

CARL LUEM, M.D. et al.,
Defendant.

SA CV 93-354-AHS(EEx)

FINDINGS OF FACT AND CONCLUSIONS OF LAW AFTER COURT TRIAL

Following trial proceedings in Case SA CV 92-221 AHS, Findings of Fact and Conclusions of Law were duly made and entered. Incorporating by reference the foregoing Findings and Conclusions, and pursuant to Rule 52, F.R. Civ. P. and Local Rule 14.3, the Court now makes these additional Findings of Fact:

1. Defendant Carl Luem committed a wrongful and intentional act during the October 27, 1989 surgery, the December 18, 1989 surgery, and the May 21, 1990 surgery.

2. The conduct of Defendant Carl Luem, in performing the above referenced surgeries, was certain to cause harm.

3. Defendant Carl Luem exercised a conscious disregard of his duties without just cause or excuse and in a manner that he should have known presented a risk of harm during the performance of these surgeries.

4. Defendant Carl Luem engaged in a willingness to risk plaintiff's loss for the prospect of personal benefit for himself.

5. The conduct of Defendant Carl Luem was in complete and total disregard for acceptable medical practice.

6. Harm was substantially certain to occur to plaintiff based on all inferences reasonably available from the nature of the acts committed by Defendant Carl Luem.

7. The conduct of Defendant Carl Luem actually produced harm and injuries to plaintiff resulting in damages to her.

8. The conduct of Defendant Carl Luem was without just cause or excuse.

9. Plaintiff did not consent to the surgeries and treatment provided by Defendant Carl Luem, M.D.

10. Plaintiff did not contribute to her damage.

The Court makes the following Conclusions of Law:

1. Plaintiff's claim for damages arising from medical procedures performed by Defendant Carl Luem is a non-dischargeable debt pursuant to 11 U.S.C. § 523(a)(6).

2. Plaintiff did not consent as a matter of law to the treatment provided by Defendant Carl Luem, M.D. *In re Paul K. Berman* (S.D. Fla. 1993) 154 B. R. 991, 1003.

IT IS SO ORDERED.

DATED: April 3, 1996.

/s/ ALICEMARIE H. STOTLER
ALICEMARIE H. STOTLER
UNITED STATES DISTRICT JUDGE

I HEREBY CERTIFY THAT THIS DOCUMENT WAS SERVED BY FIRST CLASS MAIL POSTAGE PREPAID TO ALL COUNSEL FOR PARTIES AT THEIR RESPECTIVE MOST RECENT, ADDRESS OF RECORD, IN THIS ACTION ON THIS DATE: 4/5/96

/s/

DEPUTY CLERK